

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARY MICKALICH and ALBERT MICKALICH,
Plaintiffs,

CASE NUMBER: 05-72276
HON. MARIANNE O. BATTANI

V.

UNITED STATES OF AMERICA,

Defendant.

**ORDER DENYING DAUBERT MOTION TO EXCLUDE THE OPINION
TESTIMONY OF DAVID KESTNER, and
ORDER DENYING MOTION IN LIMINE REGARDING DEFENDANT’S SPOILATION OF
EVIDENCE & PROFFERED TESTIMONY OF SMITH KALITA**

Pending before the Court is Defendant's Daubert Motion to Exclude the Opinion Testimony of David Kestner (Doc. #11), filed on November 20, 2006. A hearing having been held on November 27, 2006, that motion is hereby DENIED.

Also pending before the Court is Plaintiff's Motion in Limine Regarding Defendant's Spoilation of Evidence & Proffered Testimony of Smith Kalita (Doc. #12), filed on November 20, 2006. A hearing having been held on November 27, 2006, that motion is hereby DENIED.

IT IS SO ORDERED.

DATED: 12/13/06

s/Marianne O. Battani
 MARIANNE O. BATTANI
 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were mailed and/or electronically filed to Hugh Davis, Robert Horvath and Rodney Patton on this date.

s/Colette Motowski
Deputy Clerk

December 13, 2006